

The Office has asserted, under M.P.E.P. § 806.05(f), that Groups III and (I and II) are related as process of making and product made. The Office has stated that the product, as claimed, can be made by another materially different process. Applicants traverse the Restriction Requirement on the grounds that the Examiner has not carried the burden of providing sufficient reasons and/or examples to support a conclusion that the product, as claimed, can be made by another materially different. Withdrawal of the Restriction Requirement is requested.

The Office has asserted, under M.P.E.P. § 806.05(c), that Groups II and I are related as combination / subcombination and that the subcombination is patentably distinct from the combination and therefore subject to restriction. Applicants traverse the Restriction Requirement on the grounds that the Examiner has not carried the burden of providing sufficient reasons and/or examples to support a conclusion that the claims of the restricted groups are patentably distinct. Withdrawal of the Restriction Requirement is requested.

Additionally, the MPEP, in subsection 803 states:

If the search and examination of an entire application can be made without a serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent inventions.

Applicants submit that a search of all the claims would not impose a serious burden on the Office. Because a search of all the claims would not impose a serious burden on the Office, Applicants request withdrawal of the Restriction Requirement.

Finally, Applicants note that MPEP §821.04 states:

If the Applicant elects claims directed to the product, and a product claim is subsequently found allowable, withdrawn process claims which depend from or otherwise include all the limitations of the allowable product claim will be rejoined.

Applicants respectfully submit that should the elected group be found allowable, the non-elected process claims should be rejoined.

Applicants submit this application is now in condition for examination on the merits and early notification of such action is earnestly solicited.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,
MAIER & NEUSTADT, P.C.
Norman F. Oblon

Customer Number
22850

Tel: (703) 413-3000
Fax: (703) 413 -2220


Daniel Pereira, Ph.D.
Registration No. 45,518